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 United Orthopaedic Appliances Co., Inc.

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK


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BEVERLY HERTZOFF, EDWIN HERTZOFF, and CLAYTON HERTZOFF,	: <u>NOTICE OF MOTION TO DISMISS</u>
	: :
Plaintiffs,	: 07 CV 3157 (CM)(MHD)
	: :
-against-	: ECF CASE
	: :
NOREEN DIAZ and UNITED ORTHOPAEDIC APPLIANCES CO., INC.	: :
	: :
Defendants.	: :
	: :
-----X	

PLEASE TAKE NOTICE, that upon the annexed declaration of Noreen Diaz, dated July 13, 2007; the exhibits annexed thereto; and, the supporting memorandum of law, and upon all of the pleadings and proceedings heretofore had herein, the undersigned will move this Court at the United States Courthouse, 500 Pearl Street, New York, New York, 10007, on the 3rd day of August, 2007 at 9:30 o'clock in the forenoon of that day or as soon thereafter as counsel may be heard, for an order on behalf of defendants Noreen Diaz and United Orthopaedic Appliances Co., Inc., pursuant to Rules 12(b)(1) and (6) of the Federal Rules of Civil Procedure, dismissing certain counts in the Amended Complaint based upon lack of subject matter jurisdiction and a failure to state a claim upon which relief can be granted, and granting defendants such other and further relief as this Court may deem just and proper.

Pursuant to Rule 6.1 of the Local Civil Rules of the United States District Courts for the Southern and Eastern Districts of New York, any opposing affidavits and answering memoranda shall be served within ten business days after service of the moving papers, and any reply affidavits and memoranda of law shall be served within five business days after service of the answering papers.

Dated: Great Neck, New York
July 13, 2007

GARFUNKEL, WILD & TRAVIS, P.C.

BY: 
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